

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRY DUWAYNE ANGRY,	:	1:09-cv-938
	:	
Plaintiff,	:	
	:	Hon. John E. Jones III
v.	:	
	:	Hon. Thomas M. Blewitt
CAPITAL CITY CAB SERVICES,	:	
	:	
Defendant.	:	

MEMORANDUM

October 9, 2009

THE BACKGROUND OF THIS MEMORANDUM IS AS FOLLOWS:

This matter is before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge Thomas M. Blewitt (Doc. 14) which recommends that we dismiss this action on the basis of Plaintiff’s failure to timely file his Amended Complaint, his failure to keep the Court apprised of his current address, and for his failure to comply with Orders of the Court. No objections to the R&R have been filed by any party.¹ For the reasons set forth below, the Court will adopt the R&R.

¹ The R&R was filed on July 31, 2009, and objections were due by August 17, 2009. No objections were filed by that deadline. By Order dated September 23, 2009 (Doc. 21), we granted Plaintiff an *additional* ten days to file objections to the R&R. Such objections were due by October 7, 2009. To this date, none have been filed.

I. STANDARD OF REVIEW

When, as here, no objections are made to a magistrate judge's report and recommendation, the district court is not statutorily required to review the report before accepting it. Thomas v. Arn, 474 U.S. 140, 149 (1985). According to the Third Circuit, however, "the better practice is to afford some level of review to dispositive legal issues raised by the report." Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987). "[T]he court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Henderson, 812 F.2d at 878-79 (stating "the failure of a party to object to a magistrate's legal conclusions may result in the loss of the right to de novo review in the district court"); Tice v. Wilson, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); Cruz v. Chater, 990 F. Supp. 375-78 (M.D. Pa. 1998); Oldrati v. Apfel, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998). The Court's examination of this case confirms the Magistrate Judge's determinations.

II. BACKGROUND

Plaintiff filed the above-captioned civil action against Defendant Capital City Cab Services arising out of a May 20, 2008 automobile accident in Harrisburg, Pennsylvania, involving Plaintiff and a taxi cab owned by Capital City Cab Services. (Doc. 1). On July 9, 2009, Magistrate Judge Blewitt ordered Plaintiff to

file an amended complaint, which specifically stated the basis for jurisdiction in this Court over the instant action. Plaintiff failed to file an amended complaint, and thereafter, through a well-reasoned R&R dated July 31, 2009 Magistrate Judge Blewitt recommended that we dismiss the case.

As we have already mentioned, neither Defendants nor the Plaintiff have filed objections to this R&R, notwithstanding the fact that Plaintiff was given multiple opportunities to file objections. Because we agree with the sound reasoning that led the Magistrate Judge to the conclusions in the R&R, we will adopt the R&R in its entirety. With a mind towards conserving judicial resources, we will not rehash the reasoning of the Magistrate Judge; rather, we will attach a copy of the R&R to this document, as it accurately reflects our consideration and resolution of the case sub judice.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRY DUWAYNE ANGRY,	:	CIVIL ACTION NO. 1:CV-09-0938
	:	
Plaintiff	:	(Judge Jones)
	:	
v.	:	(Magistrate Judge Blewitt)
	:	
CAPITAL CITY CAB SERVICES,	:	
	:	
Defendant	:	

REPORT AND RECOMMENDATION

On May 19, 2009, the *pro se* Plaintiff, while an inmate incarcerated at the Dauphin County Prison, Harrisburg, Pennsylvania, filed the above-captioned civil action which arises out of a May 20, 2008 automobile accident in Harrisburg, Pennsylvania, involving Plaintiff and a taxi cab owned by Capital City Cab Services. (Doc. 1).¹ The Plaintiff also filed a Motion for Leave to Proceed *in forma pauperis*. (Doc. 2).

On June 16, 2009, Plaintiff filed a document, in both this case and in his Civil No. 09-0939 case, styled as "The Amendments," in which he quoted from the First, Seventh and Eighth Amendments to the United States Constitution. (Doc. 10). Plaintiff filed the document

¹Plaintiff simultaneously filed, *pro se*, three other complaints arising out of the same automobile accident, Civil Nos. 09-0939, 09-0940 and 09-0941. By Order of July 6, 2009 the District Court adopted our Report and Recommendation in Civil Nos. 09-0938, 09-0940 and 09-0941, and consolidated cases 09-0940 and 09-0941 into the above-captioned 09-0938 action. (Doc. 11).

Plaintiff's Civil No. 09-0939 case against his insurance company for failure to pay his claim is the subject of a July 20, 2009 Report and Recommendation in which we recommended that the case be dismissed on the basis of Plaintiff's failure to timely file his Amended Complaint, his failure to keep the Court apprised of his current address, and for his failure to comply with the Orders of the Court.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRY DUWAYNE ANGRY,	:	CIVIL ACTION NO. 1:CV-09-0938
	:	
Plaintiff	:	(Judge Jones)
	:	
v.	:	(Magistrate Judge Blewitt)
	:	
CAPITAL CITY CAB SERVICES,	:	
	:	
Defendant	:	

NOTICE

NOTICE IS HEREBY GIVEN that the undersigned has entered the foregoing
Report and Recommendation dated **July 31, 2009**.

Any party may obtain a review of the Report and Recommendation pursuant to
Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within ten (10) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the

magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

s/ Thomas M. Blewitt
THOMAS M. BLEWITT
United States Magistrate Judge

Dated: July 31, 2009